

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA	:	1:15CR261-1
	:	
v.	:	
	:	
JOTHAM W. PRUITT	:	FACTUAL BASIS

NOW COMES the United States of America, by and through Ripley Rand, United States Attorney for the Middle District of North Carolina, and as a factual basis under Rule 11 of the Federal Rules of Criminal Procedure, states the following:

From in or about December 2005 to in or about December 2010, JOTHAM W. PRUITT ("Pruitt"), his brother Aubrey Pruitt and friend Dustin Fisher operated a marijuana "grow" business in Orange County, North Carolina. As part of the "grow" operation, Aubrey Pruitt and Dustin Fisher grew marijuana indoors in houses obtained for them by Pruitt in the vicinity of the Town of Hillsborough, Orange County, North Carolina. The operation was funded and supported by several individual investors including an attorney in Raleigh. "Grow" houses for the operation were located at 6557 New Sharon Road, 3812 New Sharon Church Road, 3818 New Sharon Church Road, 2622 Miller Road, 1414 Laurel Lane, and 3417 Schley Road, all in Orange County, in the Middle District of North Carolina.

Each of the above referenced "grow" houses was purchased for the operation by Pruitt under the pretense the houses were to be used for investment purposes. Pruitt obtained mortgage funding to purchase each of the "grow" houses under the false pretense that he was obtaining mortgage financing to purchase residential rental property to use as an investment. Pruitt did not represent to the banks providing mortgage financing that the houses were intended to be used for marijuana "grow" houses.

SunTrust Bank, N.A., provided mortgage financing for the purchase of the property located at 6557 New Sharon Church Road, Rougemont, North Carolina, in the amount of \$225,000 on or about March 14, 2006. Branch Bank and Trust Company provided the mortgage financing for the purchase of the property at 3812 New Sharon Church Road, Rougemont, North Carolina, in the amount of \$508,000 on or about June 27, 2007. Branch Bank and Trust Company provided the mortgage financing for the purchase of the property at 3818 New Sharon Church Road Rougemont, North Carolina, in the amount of \$108,000 on or about May 25, 2007. Long Beach Mortgage provided mortgage financing for the purchase of the property at 1414 Laurel Lane, in the amount of \$394,000.00. HSBC Mortgage provided mortgage financing for the purchase of property at 3417 Schley Road, Hillsborough, North Carolina, in the amount of \$289,000.00 on or about August 16, 2006.

To obtain mortgage financing for purchase of properties as "grow" houses, Pruitt concealed from Branch Bank and Trust Company and SunTrust Bank, N.A., the fact that the houses were intended to be used marijuana "grow" houses.

Each of the "grow" houses was modified to allow efficient growth and harvest of marijuana plants. Such modifications physically damaged the houses and reduced their value as residences. After harvesting the marijuana grown in the Orange County "grow" houses, the marijuana was distributed and sold for cash. By the end of the marijuana growing operations in 2010 sale and distribution of the marijuana had generated approximately \$4 million in cash sales. Upon completing the harvest, Pruitt ceased making mortgage payments to the banks and allowed all of the grow houses to go into foreclosure. The following table shows the total loss to each bank following sale of each of the properties at foreclosure.

Loan Date	Address	Bank	Sale Date	Sale Price	Original Loan	Difference
3/14/2006	6557 New Sharon Church Road	SunTrust Mortgage	11/15/2012	\$ 153,000	\$ 180,000	\$ (27,000)
3/14/2006	6557 New Sharon Church Road	SunTrust Mortgage	11/15/2012	\$ -	\$ 45,000	\$ (45,000)
6/27/2007	3812 New Sharon Church Road	BB&T	7/6/2011	\$ 376,000	\$ 508,000	\$ (132,000)
5/25/2007	3818 New Sharon Church Road	BB&T	7/28/2011	\$ 40,950	\$ 108,000	\$ (67,050)
2/16/2007	2622 Miller Road	Countrywide Bank	4/5/2013	\$ 335,000	\$ 293,820	\$ -
2/16/2007	2622 Miller Road	Countrywide Bank	4/5/2013	\$ -	\$ 36,727	\$ -
12/20/2005	1414 Laurel Lane	Long Beach Mortgage	8/13/2012	\$ 203,530	\$ 315,200	\$ (111,670)
12/20/2005	1414 Laurel Lane	Long Beach Mortgage	8/13/2012	\$ -	\$ 78,800	\$ (78,800)
8/16/2006	3417 Schley Road	HSBC Mortgage	1/2/2013	\$ 140,001	\$ 231,200	\$ (91,199)
8/16/2006	3417 Schley Road	HSBC Mortgage	1/2/2013	\$ -	\$ 57,800	\$ (57,800)
				\$ 1,248,481	\$ 1,854,547	\$ (610,519)

Sales price is based on the price paid at the courthouse steps during foreclosure. Bank of America bid \$335,000 on property located at 2622 Miller Road but total loan balance was slightly lower than bid; therefore, loss is calculated at zero.

In particular, Pruitt made the following misrepresentations as part of his scheme to obtain mortgage financing for the grow houses.

On or about March 14, 2006, Pruitt prepared and submitted a "Uniform Residential Loan Application" to SunTrust Bank, N.A., to obtain mortgage financing in the amount of \$180,000 to purchase a residence at 6557 New Sharon Road, Rougemont, North Carolina. On or about February 27, 2006 Pruitt prepared and submitted a second "Uniform Residential Loan Application" to SunTrust Bank, N.A., to obtain further mortgage financing in the amount of \$45,000 to purchase the residence at 6557 New Sharon Road, Rougemont, North Carolina. Pruitt falsely represented on both loan applications for mortgage financing for the 6557 New Sharon Road Property that he had monthly income of \$25,000 from "commissions" when in truth, as he then well knew, he did not have income in this amount from commissions.

Pruitt also falsely represented on both loan applications for mortgage financing for the 6557 New Sharon Road Property that the property would be used as an investment when in truth, as he then well knew, the property would be used as an illegal "grow house" as part of a narcotics business. In so doing he falsely represented on both loan applications for mortgage financing for the 6557 New Sharon Road Property on Section IX of the loan application that the "property will not be used for any

illegal or prohibited purpose or use" when in truth, as he then well knew, he intended to use the property at 6557 Sharon Road as an illegal "grow" house.

On or about March 30, 2007, Pruitt, for the purpose of inducing Branch Bank and Trust Company to extend mortgage financing to him for the purchase of properties in Orange County, North Carolina, prepared and provided to Branch Bank and Trust a "Personal Financial Statement." Pruitt represented on March 30, 2007, "Personal Financial Statement" that he had rental income in the amount of \$78,000 from four properties in Orange County when in truth, as he then well knew, these properties were not rental properties, but were in use as illegal "grow houses" and this income came from an illegal narcotics business. Pruitt provided Branch Bank and Trust with copies of his 2006 Individual Form 1040 Tax Return on which he had falsely represented to the Internal Revenue Service on Schedule E of the Return that he had \$78,000 in income from rental properties in Orange County, North Carolina.

On or about October 4, 2012, Jotham W. Pruitt deposited \$80,000 in cash from the final proceeds of the marijuana operation into the account of a corporation operated by Pruitt, Abundance Capital, LLC. This deposit furthered Pruitt's general scheme of concealing the proceeds of the narcotics business in

corporations supposedly engaging in legitimate business ventures.

From 2006 to 2010, Pruitt falsely represented to the IRS on his personal Income Tax Returns that he had substantial income from residential rental properties. In fact, Pruitt did not have this income. In particular, Pruitt represented on his 2009 Form 1040 tax return that he had \$156,000 in gross rental income from the rental houses in Orange County when in fact he had no such income and the properties were "grow" houses.

This the 22nd day of July, 2015.

Respectfully submitted,

RIPLEY RAND
United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2015, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Joseph Cheshire, Esq.

/S/ FRANK J. CHUT, JR.
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